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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,664	09/29/2003	David Haase	EMC-03-100	2361

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EXAMINER

FARROKH, HASHEM

ART UNIT	PAPER NUMBER
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2187

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/673,664

Applicant(s)

HAASE ET AL.

Examiner

Hashem Farrokh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/3/06.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-9,13-16,20 and 21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,6-9,13-16,20 and 21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The instant application having application No. 10/673,664 has a total of 12 claims pending in the application; claims 1, 8, 13, 15, and 20 have been amended; claims 3-5, 10-12, and 17-19 have been canceled; no new claims have been added.

The terminal disclaimer filed on 8/14/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application No. 10/673,664 has been reviewed and is accepted. The terminal disclaimer has been recorded.

INFORMATION CONCERNING CLAIMS:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 8, and 15 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

1. In regard to claims 1, 8, and 15 the Examiner has not been able to find a description of the limitation: "recording data content of the source affected by a host write in a protected restore map used to track extents of the source that are modified during the restoring and preserving steps" in the specification. The Applicant might have

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meant: --recording information that indicates data content of the source affected by a host write in a protected restore map used to track extents of the source that are modified during the restoring and preserving steps--

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 8, and 15 rejected are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. *As has been indicated above the Examiner can not find in the specification that describes the limitation: "recording data content of the source affected by a host write in a protected restore map used to track extents of the source that are modified during the restoring and preserving steps". It would be appreciated if the Applicant point out were in the specification this limitation described.*

Accordingly a correction/clarification is required.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-2, 6-9, 13-16, and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,898,681 B2 to Young.

3. *In regard to claim 1, Young teaches:*

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"In a data storage environment having a first volume of data denominated as the source being stored on a data storage system (**column 4, lines 11-15; element 6 in Fig. 1**), and a second volume of data denominated as the clone, which has data content that is a copy of the data content of the source being stored on the data storage system (**column 4, lines 11-15; element 8 in Fig. 1**), a method operable on a computer system for protecting the clone's data content during a restoration of the source," (**e.g., see column 1, lines 61-64; column 7, lines 30-38; element 4 in Fig. 1**). *For example the master store or volume represents the first volume and shadow store or volume represents the clone volume recited in the claim. The shadow store contains the point in time copy of master data, which is used for controlling, or managing data during the restoration the master or the source. When data is overwritten, a new point in time copy is created and the previous point time is protected (e.g., not overwritten).*

"the method comprising the steps of:"

"restoring the source by copying data content from the clone to overwrite the data content of the source while allowing host reads and writes to the source during the restoring step (**e.g., see column 10, lines 11-20; Fig. 6c**), said copying being determined by a clone delta map used to track extents of the clone that are different between the clone and the source;" (**e.g., see column 10, lines 27-32**). *For example a "1" in copy bitmap indicates the extent of shadow store data that different from master store. Data with a corresponding "1" in copy bitmap will be copied.*

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“preserving the data content of clone by not allowing it to be overwritten by host writes during the restoring step;” (e.g., see column 1, lines 61-64; column 20, lines 4-7). *For example whether to overwrite or protect the point in time copy is user’s selectable.*

“recording data content of the source affected by a host write in a protected restore map used to track extents of the source that are modified during the restoring and preserving steps;” (e.g., see column 10, line 26). *The shadow bitmap represents the protected restore map. A “1” in the shadow bitmap indicates that its corresponding extent in the master store modified or over written.*

“setting the protected restore map as the delta clone map after the restoring step is completed.” (e.g., see column 10, lines 7-44; Fig. 6c). *For example the shadow bitmap at the completion of recovery or restoration represents the delta clone map. A “one” in the shadow bitmap indicates extent that is different between the master and shadow store.*

4. *In regard to claims 2, 9, and 16 Young teaches:*

“wherein the source and the clone are each represented by respective first and second logical units.” (column 2, lines 35-40; column 4, lines 11-15). *For example Young teaches that that a plurality of volumes are grouped together as a single logical device (e.g., source logical unit). The point in time copy of logical device is stored in shadow storage, which is in separate volumes, or logical device, which represents the clone logical unit recited in the claim.*

5. *In regard to claims 6, 13 and 20 Young teaches:*

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"wherein the clone delta map is used to copy only extents that are different between the clone and its source during the restoration step." (e.g., see **column 10, lines 50-53; column 14, lines 26-31; Fig. 5a**). For example setting of a bit in the bit map (e.g., a "logic 1") indicates that its corresponding data block in the shadow store is different from the one in the master store. The data blocks that have their corresponding bits in the bit map set will be copied to the master store during the restoration or recovery.

6. In regard to claims 7, 14 and 21 Young teaches:

"wherein the protected restore map is coordinated with the clone delta map for processing of write data to the source." (e.g., see **column 6, lines 66-67; column 7, lines 1-43; Fig. 5a-5e**). For example the shadow bit map coordinated with the copy bit map for efficient of processing of write data to the master store.

7. In regard to claim 8, Young teaches:

A system (**column 22, lines 24-26**) for protecting data content during restoration of data from a second volume of data to a first volume of data," (e.g., see **column 1, lines 61-64; column 7, lines 30-38; element 4 in Fig. 1**).

"the system comprising:"

"a data storage system having a first volume of data denominated as the source being stored on a data storage system (**column 4, lines 11-15; element 6 in Fig. 1**), and a second volume of data denominated as the clone and which has data content that is a copy of the data content of the source being stored on the data storage system;" (e.g., see **column 4, lines 11-15; element 8 in Fig. 1**).

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“computer-executable program logic, provided from a computer readable medium, configured for causing a computer-executed the steps of:” (e.g., see column 25, lines 1-31; column 27, lines 38-46).

“restoring the source by copying data content from the clone to overwrite the data content of the source (e.g., see column 10, lines 11-20; Fig. 6c), while allowing host reads and writes to the source during the restoring step (e.g., see column 7, lines 18-38; column 8, lines 56-61), set copying being determined by a clone delta map used to track extents of the clone that are different between the clone and the source” (e.g., see column 11, lines 55-62).

“preserving the data content of clone by not allowing it to be overwritten by host writes during the restoring step.” (e.g., see column 1, lines 61-64; column 20, lines 4-7).

“recording data content of the source affected by a host write in a protected restore map used to track extents of the source that are modified during the restoring and preserving steps;” (e.g., see column 10, line 26).

“setting the protected restore map as the delta clone map after the restoring step is completed.” (e.g., see column 10, lines 7-44; Fig. 6c).

8. *In regard to claim 15, Young teaches:*

A program product (e.g., column 4, lines 17-19) for use in a data storage environment and being for protecting data content during restoration of data from a second volume of data to a first volume of data,” (e.g., see column 1, lines 61-64; column 7, lines 30-38; element 4 in Fig. 1).

“wherein the data storage environment includes:”

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"a data storage system having a first volume of data denominated as the source being stored on a data storage system (**column 4, lines 11-15; element 6 in Fig. 1**), and a second volume of data denominated as the clone and which has data content that is a copy of the data content of the source being stored on the data storage system;" (**e.g., see column 4, lines 11-15; element 8 in Fig. 1**).

"the program product includes computer-executable logic contained on a computer-readable medium and which is configured for causing a computer to execute the steps of:" (**e.g., see column 25, lines 1-31; column 27, lines 38-46**).

"restoring the source by copying data content from the clone to overwrite the data content of the source (**e.g., see column 10, lines 11-20; Fig. 6c**), while allowing host reads and writes to the source during the restoring step (**e.g., see column 7, lines 18-38; column 8, lines 56-61**), said copying being determined by a clone delta map used to track extents of the clone that are different between the clone and the source;" (**e.g., see column 11, lines 55-62**).

"preserving the data content of clone by not allowing it to be overwritten by host writes during the restoring step." (**e.g., see column 1, lines 61-64; column 20, lines 4-7**).

"recording data content of the source affected by a host write in a protected restore map used to track extents of the source that are modified during the restoring and preserving steps;" (**e.g., see column 10, line 26**).

"setting the protected restore map as the delta clone map after the restoring step is completed." (**e.g., see column 10, lines 7-44; Fig. 6c**).

Response to Applicant's Remarks

The Examiner acknowledges and appreciates the Applicant's amendment filed on 11/03/06 to correct the status indication of claim 1. However, the Applicant's argument in his remark regarding the Office action dated 5/2/06 is not persuasive.

In page 10 of his 8/14/06 Remarks the Applicant states:

"...Young cannot be said to anticipate the present invention, because Young fails to disclose each and every element recited. Young fails to disclose recording data content of the source affected by a host write in a protected restore map used to track extents of the source that are modified during the restoring and preserving steps and setting the protected restore map as the delta clone map after the restoring step is completed."

As was indicated above under 35 USC 112 rejection the Examiner assumes by the limitation "recording data content of source affected by a host..." the Applicant means: --recording information corresponding to data content of source affected by a host...-- However, the Examiner believes Young clearly teaches this limitation (see, for example column 10, lines 7-44 and Fig. 6c of Young. Accordingly the Examiner maintains his position and makes this Office Action final.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Any inquiry concerning this communication should be directed to Hashem Farrokh whose telephone number is (571) 272-4193. The examiner can normally be reached Monday-Friday from **8:00 AM to 5:00 PM**.*

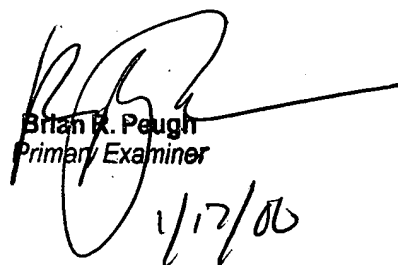
If attempt to reach the above noted Examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Donald A Sparks, can be reached on (571) 272-4201.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBS) at 866-217-9197 (toll-free).

HF

HF

2006-01-14


Brian R. Paugh
Primary Examiner
1/12/06